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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,573	02/08/2001	Etienne Regulier	017753-137	5075

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EXAMINER	
CHEN, LIPING	
ART UNIT	PAPER NUMBER
1632	

DATE MAILED: 08/05/2002 4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/762,573	REGULIER ET AL.	
	Examiner	Art Unit	
	Liping Chen	1632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21,23 and 24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-21, 23-24* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

Election/Restriction

Restriction to one of the following inventions is required under PCT Rule 13.1:

I. Claims 1-7, 11-15, 19, 20, 23 and 24, drawn to a composition comprising a) a nucleic acid sequence encoding all or part of an MIP chemokine and b) at least one nucleic acid sequence encoding all or part of a cytokine that having at least cytotoxic activity, a vector, a Formulation, and a method of treating a patient in need.

II. Claims 1-3, 8, 9, 11-15, 19-21, 23 and 24, drawn to a composition comprising a) a nucleic acid sequence encoding all or part of an MIP chemokine and b) at least one nucleic acid sequence encoding all or part of a protein encoded by suicide genes that having at least cytotoxic activity, a vector, a Formulation, and a method of treating a patient in need.

III. Claims 1-3, 10, 11-15, 19, 20, 23 and 24, drawn to a composition comprising a) a nucleic acid sequence encoding all or part of an MIP chemokine and b) at least one nucleic acid sequence encoding all or part of an anti-angiogenic protein factor that having at least cytotoxic activity, a vector, a Formulation, and a method of treating a patient in need.

IV. Claims 16 and 17, drawn to a virus particle containing a vector that containing a composition comprising a) a nucleic acid sequence encoding all or part of an MIP chemokine and b) at least one nucleic acid sequence encoding all or part of a polypeptide having at least cytotoxic activity, and a method for preparing the viral particle.

V. Claim 18, drawn to a composition comprising a) all or part of an MIP chemokine polypeptide, and b) all or part of a polypeptide having at least cytotoxic activity that is a cytokine.

VI. Claim 18, drawn to a composition comprising a) all or part of an MIP chemokine polypeptide, and b) all or part of a polypeptide having at least cytotoxic activity that is a protein encoded by a suicide gene.

VII. Claim 18, drawn to a composition comprising a) all or part of an MIP chemokine polypeptide, and b) all or part of a polypeptide having at least cytotoxic activity that is an anti-angiogenic protein factor.

This application Group I contains claims directed to more than one species of the generic invention. The species are: Interferon-α, Interferon-β, Interferon-γ, interleukin-2, Or other interleukins, tumor necrosis factors and colony stimulating factors.

This application Group II contains claims directed to more than one species of the generic invention. The species are: Thymidine kinase activity, purine nucleoside phosphorylase activity, guanine phosphoribosyl transferase activity, cytosine deaminase activity, CDase activity or UPRTase activity.

This application Group III contains claims directed to more than one species of the generic invention. The species are: Angiostatin, endostatin, platelet factor PF4, thrombospondin-1, PRP, VEGI, metalloprotease or urokinase.

These are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. Applicant is required to select one species for examination practice.

The inventions listed as Groups I-VII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I encompasses a nucleic acids encoding all or part of an MIP chemokine and at least one nucleic acid sequence encoding all or part of a cytokine that having at least cytotoxic activity, and a plasmid vector containing the composition. Group II-VII are directed to different products or methods that require different special technical features as summarized as follows:

Composition in Group II and III comprising a nucleic acid sequence encoding all or part of an MIP chemokine, but encoding different polypeptide having at least cytotoxic activity: Composition in Group II contains at least one nucleic acid sequence encoding all or part of a protein encoded by a suicide gene; Composition in Group III contains at lest one nucleic acid sequence encoding all or part of an anti-angiogenic protein factor; Group IV is directed to a viral particle and a method of making; Group V-VII direct to different compositions comprising polypeptides, the differences among Group V-VII are as in Group I-III. Moreover, the nucleic acid and peptide sequence of MIP were well-known in the art, as evidenced by *Cerami et al.* (U.S. Patent No: 5,741,484, issued April 21, 1998). Thus, Groups I-VII lack a common special technical feature. Further, 37 CFR 1.475 does not provide for multiple independent products, methods of manufacture and methods of use (37 CFR 1.475(d). Therefore, The inventions listed as Groups I-VII do not relate to a single general inventive concept under PCT Rule 13.1.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).)

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Liping Chen, whose telephone number is (703) 305-4842. The examiner can normally be reached on Monday through Friday from 8:00 to 5:00 (Eastern Standard Time). Should the examiner be unavailable, inquiries should be directed to Deborah Reynolds, Supervisory Primary Examiner of Art Unit

1632, at (703) 305-4051. Any administrative or procedural questions should be directed to Pauline Farrier, Patent Analyst, at (703) 305-2758. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is (703) 308-8724.

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1632.

Liping Chen, Ph.D.
Patent Examiner
Group 1632
July 25, 2002

SHIN-LIN CHEN
PATENT EXAMINER